

Court of the Judiciary
Created by Section 17-5-201, Tennessee Code Annotated
(Sunset termination June 30, 2012)

1. Provide a brief introduction to the court including information about its purpose, statutory duties, and staff.

The Court of the Judiciary was established pursuant to Tennessee Code Annotated Title 17, Chapter 5. The purpose and statutory duties of the Court of the Judiciary are expressly stated in Tenn. Code Ann. § 17-5-101, which states:

It is expressly declared to be the legislative intent in the enactment of this chapter to:

- (1) Provide an orderly and efficient method for making inquiry into:
 - (A) The physical, mental and moral fitness of any Tennessee judge;
 - (B) The judge's manner of performance of duty;
 - (C) The judge's commission of any act calculated to reflect unfavorably upon the judiciary of the state or bring the judiciary into disrepute or that may adversely affect the administration of justice in the state; or
 - (D) The conduct of candidates for judicial office;
- (2) Provide a process by which appropriate sanctions may be imposed; and
- (3) Implement Tenn. Const. art. VI, § 6 by providing a procedure for the removal of judges.

Tenn. Code Ann. § 17-5-101.

The staff of the Court of the Judiciary (COJ) is led by Disciplinary Counsel, who is appointed pursuant to Tenn. Code Ann. § 17-5-3019(d). The COJ is also staffed by one part-time Assistant Disciplinary Counsel and one part-time Investigator who are employed by the Disciplinary Counsel pursuant to Tenn. Code Ann. § 17-5-201(d) with the approval of the COJ.

2. Provide a list of current members of the court and describe how membership complies with Section 17-5-201(a), Tennessee Code Annotated. Who appoints members? Are there any vacancies on the court? If so, what steps have been taken to fill the vacancies?

The COJ consists of 16 members. A membership list is attached as Exhibit A. The members are appointed pursuant to Tenn. Code Ann. § 17-5-201(a)(1) – (6). This section establishes appointment as follows:

- (1) Any combination of three (3) judges from the court of appeals and court of criminal appeals to be appointed by the supreme court of Tennessee;
- (2) One (1) trial judge from each grand division to be appointed by the supreme court of Tennessee;
- (3) One (1) practicing attorney from each grand division to be appointed by the board of governors of the Tennessee Bar Association;
- (4) Three (3) public members who are not judges, retired judges, nor licensed attorneys of the state, one (1) to be appointed by the speaker of the senate, one (1) to be appointed by the speaker of the house of representatives, and one (1) to be appointed by the governor;
- (5) One (1) general sessions or juvenile court judge licensed to practice law in this state from each grand division to be appointed by the supreme court. In any event, there shall always be at least one (1) appointee who currently and regularly exercises juvenile court jurisdiction; and
- (6) One (1) municipal court judge licensed to practice law in this state to be appointed by the supreme court.

Tenn. Code Ann. § 17-5-201. One appellate court member's term expired on June 30, 2011. The Supreme Court has been notified of the term expiration and the member continues to serve until his replacement has been appointed and qualified. A lay member's term expires on August 31, 2011. The Governor has been notified of the upcoming term expiration.

3. How have the provisions of Section 17-5-201(f), Tennessee Code Annotated, been reflected in the appointments to the court?

The current membership of the COJ includes five females and one member of a racial minority.

4. Who has the court chosen as the presiding judge and how has the presiding judge divided the court into a hearing panel and an investigative panel as provided for in Section 17-5-201(e), Tennessee Code Annotated?

The current presiding judge is Chris Craft, a Criminal Court Judge from Shelby County, Tennessee. The presiding judge has named 10 investigative panels, each consisting of three members. Each investigative panel consists of at least one layperson or attorney member. All investigative panels are composed such that at least one grand division of the state does not have a member on the panel. Hearing panels are made up of judges who did not sit on the investigative panel pursuant to Tenn. Code Ann. § 17-5-308(b).

5. How many times did the court sit during the last two years?

The COJ convened, as a whole, 6 times during the past two years. Four of these meetings were convened in Nashville to fulfill the two annual meetings requirement found in Rule 1 of the Rules of Practice and Procedure of the Tennessee Court of the Judiciary. The other two times, the COJ convened in Murfreesboro to hear preliminary motions, and then in Cocke County to conduct the trial of a judge on formal charges brought against him. In addition to these 6 meetings, investigative panels composed of three members each met by teleconference and electronic means on an almost daily basis.

6. What per diem or travel reimbursement do members receive? How much was paid to members during fiscal years 2010 and 2011? What were the court's total revenues (by source) and expenditures (by object) during the same period?

Reimbursable lodging expenses are reimbursed at the single occupancy room rate or the approved conference room rate. Mileage is reimbursed at the current state rate. Reimbursement for in-state meals and incidentals is in accordance with the CONUS rates for Tennessee.

2010 Expenses:

Travel \$ 8,702.99
Printing and Duplicating \$ 2,950.27
Communications \$ 1,303.98
Professional Services \$ 253,089.09
Supplies \$ 144.01
Rentals & Insurance \$ 483.23

Total \$ 266,673.57

2011 Expenses:

Travel \$ 3,261.90
Printing and Duplicating \$ 172.79
Utilities \$ 74.00
Communications \$ 552.04
Professional Services \$ 236,565.06
Supplies \$ 62.00
Awards & Indemnities \$ 386.20
Professional Services – State \$ 23.00

Total \$ 241,096.99

This program does not generate any revenue. On two occasions during the prior two fiscal years, the Court has taxed costs against a person on whom an order of discipline was entered in matter involving public charges. On both occasions, the costs were

collected and retained by the Appellate Court Clerk. The total collected was less than Five Thousand Dollars (\$5,000.00).

- 7. Have any members of the court elected to recuse or abstain in any matters during the last two years? Were temporary replacements designated in those cases as authorized in Section 17-5-206, Tennessee Code Annotated?**

There have been a few instances where a member of an investigative panel has had a conflict. In such instances, the member with a conflict has been replaced from the remaining membership of the COJ. On the hearing panel for Judge John A. Bell, two persons were designated as temporary replacements pursuant to Tenn. Code Ann. § 17-5-206 by order dated June 14, 2010. Orders concerning these temporary appointments and other orders on public complaints can be found on the website for the Administrative Office of the Courts.

- 8. Has the court appointed disciplinary counsel as provided for in Section 17-5-301, Tennessee Code Annotated?**

The COJ appointed Timothy R. Discenza as Disciplinary Counsel on July 1, 2010. He continues to serve in this capacity.

- 9. How many complaints against judges has the court received during the last two years? How many resulted in sanctions? How many were dealt with through private reprimand or private censure? How many by deferred discipline agreement? How many by more severe sanction, listing the number and types of sanctions imposed?**

The COJ received and processed 703 judicial complaints from July 1, 2009 to June 30, 2011. During this same time period, 25 complaints resulted in sanctions. Seven were issued private reprimands. Eight entered into deferred discipline agreements. Nine received public reprimands. One suspension was issued.

- 10. During the last two years, how many charges or complaints have been disposed of as “frivolous or unfounded, or beyond the permissible scope of the court’s inquiry” and had the records destroyed as authorized in Section 17-5-305, Tennessee Code Annotated?**

No records have been destroyed pursuant to Tenn. Code Ann. § 17-5-305. Further, no records concerning any complaint filed have been destroyed.

- 11. During the last two years, how many complaints received fell under each of the offenses listed in Section 17-5-302, Tennessee Code Annotated?**

The record keeping of Disciplinary Counsel does not categorize complaints by the categories listed in Tenn. Code Ann. § 17-5-302, as the categories overlap, making analysis by statutory category difficult and unhelpful in determining trends.

Disciplinary Counsel has maintained records utilizing categories that identify the type of complaint which may be useful. Of complaints received during the previous two fiscal years:

NATURE OF COMPLAINT	Number of Complaints
Failure to comply with law	455
Bias, prejudice, unfairness	93
Discourtesy	18
Abuse of Office	35
Conflict of Interest	30
Delay	23
Ex parte communication	8
Disability	4
Political violation	15
Miscellaneous	7
Recusal	12

12. During the last two years, has the court, either on its own motion or pursuant to complaint, dealt with any cases involving judicial disability as authorized in Section 17-5-303, Tennessee Code Annotated?

As indicated above, the COJ considered 4 complaints involving judicial disability.

13. During the last two years, how many cases have been transmitted to the General Assembly for final action as provided for in Section 17-5-311, Tennessee Code Annotated?

No cases were transmitted to the General Assembly during the previous two years. However, it should be noted that the Court of Judiciary loses jurisdiction if, while a complaint is pending, the judge that is the subject of the complaint resigns, retires or otherwise leaves office. It was announced at the annual meeting of the Court of Judiciary on August 24, 2011 that in the past 4 years, 21 judges resigned or retired while complaints against them were pending. In those cases, the complaints were retired, but were not dismissed, and will be reopened if that judge again becomes a candidate for judicial office.

14. Describe any items related to the court that require legislative attention and your proposed legislative changes.

The Tennessee Judicial Conference, Tennessee General Sessions Conference, Tennessee Council of Juvenile and Family Court Judges and the Tennessee Municipal Judges Conference have all been considering the Code of Judicial Conduct, Court of

the Judiciary and judicial discipline in Tennessee during the summer. All should be prepared to report their findings at the time of the sunset hearing.

15. Should the court be continued? To what extent and in what ways would the absence of the court affect the public health, safety, and welfare?

The Court of Judiciary should be continued. The COJ provides an avenue for public complaints about the judiciary and the resolution of such complaints. It is necessary to ensure that the public has a method to report unethical conduct and to institute the investigation and discipline of judges who violate the Code of Judicial Conduct, Rules of Professional Responsibility to the extent applicable, or any other matter that interferes with the public's perception of the impartiality and fairness of the judicial system. The COJ also has a deterrent effect on judicial misconduct both by the threat of sanction and by its efforts to educate and inform the judiciary of potential problems.

In addition, pursuant to 17-5-304(f) the COJ has the power to immediately suspend a judge upon the filing of an indictment, presentment or information against the judge in any jurisdiction, to protect the public from harm during the pendency of removal proceedings or other litigation, and pursuant to 17-5-301(e)(5) may enlist the help of the Tennessee Bureau of Investigation or local District Attorney to investigate offenses on complaints brought by private citizens who might not otherwise have come forward. Also, as a judge may elect to resign rather than have formal charges filed which may lead to removal from office, the COJ provides a way of removing judges without costly and lengthy removal hearings which would tend to erode the public's faith in government. Again, the complaint would not be dismissed, but only retired, with all records of the investigation preserved, to be reopened if the judge again became a candidate for judicial office.

16. Please provide a breakdown of current court staff by title, ethnicity, and gender.

Disciplinary Counsel – Caucasian male
Assistant Disciplinary Counsel – Caucasian male
Investigator – Caucasian male

17. Please list all court contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

James R. Bierbrodt - Investigator for The Court of the Judiciary
\$ 50,000.00 – Caucasian male
Timothy DiScenza - Chief Disciplinary Counsel
\$ 150,000.00 – Caucasian male
Patrick McHale - Assistant Disciplinary Counsel
\$ 75,000.00 – Caucasian male

Court of the Judiciary

Tenn. Code Ann. § 17-5-201
Presiding Judge: Judge Chris Craft
Presiding Judge Pro Tem: Judge Jean Stanley

Judge Don R. Ash

Circuit Court
16th Judicial District, Part III
20 Public Square North, Room 409
Murfreesboro, TN 37130
Phone: (615) 898-8074
Fax: (615) 898-8013
E-mail: dash@rutherfordcounty.org
Term: 07/01/11 - 06/30/15 (2)*
Appointed by: Supreme Court
(Trial judge – Middle)

Judge Jeffrey S. Bivins

Tennessee Court of Criminal Appeals
Supreme Court Bldg.
401 Seventh Avenue North, Ste. 221
Nashville, TN 37219
Phone: (615) 532-7945
Fax: (615) 741-9880
Email: Judge.Jeff.Bivins@tncourts.gov
Term: 08/30/11 - 06/30/15
Appointed by: Supreme Court
(Intermediate app ct)

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Term: 06/23/11 - 06/22/15 (2)*
Appointed by: Tennessee Bar Association
(Atty – West)

Judge Chris Craft

Criminal Court
30th Judicial District
Shelby County Justice Complex
201 Poplar Avenue, Suite 519
Memphis, TN 38103
Phone: (901) 545-5861
Fax: (901) 545-2236
E-mail: Christopher.craft@shelbycountyttn.gov
Term: 07/01/11 - 06/30/15 (1)
Appointed by: Supreme Court
(Trial judge - West)

Judge Angelita Blackshear Dalton

General Sessions Court
20th Judicial District
Justice A. A. Birch Building
408 Second Avenue North, Suite 3110
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E-mail: angelitadalton@jis.nashville.org
Term: 07/01/11 - 06/30/15 (2)*
Appointed by: Supreme Court
(GS judge – licensed in TN - Middle)

Judge Joe F. Fowlkes

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Term: 03/01/09 - 02/28/13 (1)
Appointed by: Supreme Court
(Municipal ct judge – licensed in TN)

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Term: 06/16/11 - 06/15/15 (1)
Appointed by: Tennessee Bar Association
(Atty – Middle)

Judge Christy R. Little

General Sessions Court
26th Judicial District
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Jackson, TN 38302
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Term: 07/01/11 - 06/30/15 (2)*
Appointed by: Supreme Court
(GS judge – licensed in TN - West)

Court of the Judiciary

Tenn. Code Ann. § 17-5-201
Presiding Judge: Judge Chris Craft
Presiding Judge Pro Tem: Judge Jean Stanley

Dr. Richard A. Manahan

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Term: 03/18/09 – 03/17/13 (1)

Appointed by: Speaker of the Senate
(*Lay member*)

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Term: 05/23/08 - 05/22/12 (1)

Appointed by: House Speaker
(*Lay member*)

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Term: 09/01/07 – 08/31/11 (1)

Appointed by: Governor
(*Lay member*)

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Term: 06/17/11 - 06/16/15 (2)*

Appointed by: Tennessee Bar Association
(*Atty - East*)

Judge J. Steven Stafford

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Term: 07/01/11 - 06/30/15 (2)*

Appointed by: Supreme Court
(*Intermediate app ct*)

Judge Jean A. Stanley

Circuit Court
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E-mail: rockytenn@yahoo.com

Term: 07/01/11 - 06/30/15 (2)*

Appointed by: Supreme Court
(*Trial judge – East*)

Judge Dwight E. Stokes

General Sessions Court
4th Judicial District
Sevier County Courthouse
125 Court Avenue, Suite 109 West
Sevierville, TN 37862

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E-mail: DESJD1@AOL.COM

Term: 07/01/11 - 06/30/15 (2)*

Appointed by: Supreme Court
(*GS & Juv judge – licensed in TN - East*)

Judge D. Kelly Thomas, Jr.

Tennessee Court of Criminal Appeals
P.O. Box 444
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Term: 07/01/11 - 06/30/15 (1)

Appointed by: Supreme Court
(*Intermediate app ct*)

Court of the Judiciary

Tenn. Code Ann. § 17-5-201
Presiding Judge: Judge Chris Craft
Presiding Judge Pro Tem: Judge Jean Stanley

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